

Appl. No. 09/672,007
Amdt. Dated December 16, 2004
Reply to Office action of October 29, 2004
Attorney Docket No. P12030-US1
EUS/J/P/04-2191

REMARKS/ARGUMENTS

Improper Final Office Action

The Applicant thanks the Examiner and his Supervisor for the teleconference on December 16, 2004, to discuss the propriety of the instant Office Action. As explained by the undersigned, the finality of the Office Action is improper, and the Applicant notes the following:

1.) In the prior Office Action dated March 23, 2004, the Examiner objected to claim 6, but indicated that claim (and others) would be allowable if rewritten in independent form. In response, the Applicant amended claim 1 to include the allowable subject matter of claim 6, thus rendering claim 1 allowable (as well as claims 2-5, 7-10 and 12, which are dependent from claim 1).

2.) In the prior Office Action, the only substantive claim rejections made by the Examiner were based on "applicants prior art in view of Raith . . . and in further view of Jones."

3.) In the instant Office Action, the Examiner rejected claim 1 as being unpatentable over "applicants prior art in view of Raith . . . and in further view of Jones."

4.) In the instant Office Action, the Examiner states that "Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action." The only amendment to claim 1, however, was the inclusion of the subject matter of claim 6, which the Examiner had stated would be allowable. Furthermore, the Examiner's explanation of the rejection of claim 1 is *verbatim* identical to the Examiner's explanation of the rejection of claim 1 in the prior Office Action, before the limitations of claim 6 were added. The Examiner has not provided any additional explanation of why he now believes the subject matter of prior claim 6, now included in claim 1, is unpatentable over "applicants prior art in view of Raith . . . and in further view of Jones." Thus, not only is the Examiner's rejection unsupported by any arguments, but the finality of the Office Action is improper since the Examiner is raising a new basis of rejection which was not necessitated by Applicant's amendment of claim 1.

Shortly after the first teleconference on December 16 between the undersigned and the Examiner and his Supervisor, the Examiner and Supervisor called the

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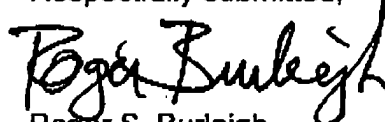
undersigned, and the Supervisor stated that it was possible that other claims indicated as being rejected might be allowable, and requested that the Applicant file a response objecting to the finality of the Office Action, whereupon a new, non-final, Office Action would be issued. Based on that, the Applicant agreed to withhold, at this time, a filing of a petition to the Commissioner. The Applicant, therefore, requests that the Examiner reconsider the application and issue a Notice of Allowance for all claims or issue a non-final Office Action, including support for all substantive claim rejections.

CONCLUSION

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for claims 1-5, 7-17 and 19.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,



Roger S. Burleigh
Registration No. 40,542

Date: December 16, 2004

Ericsson Inc.
6300 Legacy Drive, M/S EVR 1-C-11
Plano, Texas 75024
(972) 583-5799
roger.burleigh@ericsson.com



BURNS DOANE SWECKER & MATHIS LLP
ATTORNEYS AT LAW

ALEXANDRIA, VIRGINIA
REDWOOD SHORES, CALIFORNIA
DURHAM, NORTH CAROLINA

Correspondence To:
P.O. Box 1404
Alexandria, Virginia 22313-1404

Office Address:
Suite 500
1737 King Street
Alexandria, Virginia 22314-2727

Telephone: +1.703.836.5620
Group 3 Fax: +1.703.836.2021
Group 4 Fax: +1.703.836.0028

October 9, 2002

Commissioner for Patents
Box CN
Washington, D.C. 20231

Dear Commissioner:

Enclosed is a hard copy and diskette containing a Microsoft Excel spreadsheet formatted as required to submit a list of multiple patents and/or patent applications appointing the practitioners associated with a Customer Number.

I hereby appoint the practitioners associated with the Customer Number provided below to prosecute the list of applications and to transact all business in the Patent and Trademark Office connected therewith, and direct that all correspondence be addressed to that Customer Number:

Customer Number 27045

Sincerely,

BURNS, DOANE, SWECKER & MATHIS


By: 

Printed Name: E. Joseph Gess

Registration No.: 28,510

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1		27045					
2							
3		Ericsson Inc.					
4		6300 Legacy Drive					
5		M/S EVW2-C-2					
6		Plano, Texas 75024					
7		USA					
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13							
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15							
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